

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1262

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1262, entitled "A Bill for an Act Relating to the Waianae Coast."

I am supportive of establishing an Ocean Recreation Management Area (ORMA) for the Waianae Coast with the pertinent administrative rules to protect resources and regulate permitted commercial activities. However, this bill is objectionable because it would also set a negative precedent by requiring the Department of Land and Natural Resources (DLNR) to prepare a regional baseline environmental study seemingly modeled along the lines of an environmental impact statement (EIS) before an ORMA is established.

Further, while the bill is prescriptive of the content of the baseline study, the legislation fails to provide a mechanism for public input and comment during and at the conclusion of the study. This runs counter to administrative rules procedures, as set forth in Chapter 91 HRS, requiring public hearings preceded by ample public notification such that all interested parties may fully participate in the rulemaking process. Rulemaking under 91 HRS is the preferable approach.

Additionally, this bill could jeopardize important DLNR programs, since the cost of this environmental baseline study is estimated to be between \$250,000 and \$1,000,000, yet the Legislature has not appropriated funds for this undertaking. Diverting staff resources and expertise to perform the baseline study could jeopardize other environmentally sensitive programs. Ironically, this bill would delay the more efficient,

transparent, and effective method of creating the Ocean Recreation Management Area through the administrative rulemaking process.

Additionally, it should be pointed out that over the past three years the Department of Land and Natural Resources has met extensively with the interested parties and believes these issues can be resolved in a manner that complies with the federal Marine Mammal Protection Act.

Section 2 of the bill places a moratorium on the number of commercial permits the DLNR can issue at any state small boat harbor facility for vessels engaged in ocean use activities in the area from Kalaeloa Point to Kaena Point. Under existing administrative rules, there are no further commercial permits available for boats berthed at the Waianae Small Boat Harbor. Therefore, this provision is unnecessary.

For the foregoing reasons, I am returning Senate Bill No. 1262 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii